

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

AUG 21 1997

FEDERAL COMMUNICATIONS COMMISSION  
 WASHINGTON, D.C.

In the Matter of )  
 ) IB Docket No. 96-111  
 Amendment of the Commission's )  
 Regulatory Policies to Allow )  
 Non-U.S.-Licensed Space Stations )  
 to Provide Domestic and )  
 International Satellite Service )  
 in the United States )

COMMENTS  
 OF  
WINSTAR COMMUNICATIONS, INC.

Pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.415 (1996), WinStar Communications, Inc. ("WinStar") hereby submits these comments on the Further Notice of Proposed Rule Making ("FNPRM") released in the above-captioned proceeding.<sup>1</sup> By this FNPRM, the Commission is proposing to open the U.S. satellite market to non-U.S. systems pursuant to the recently completed World Trade Organization ("WTO") Basic Telecom Agreement. WinStar is in agreement with the FCC's general proposal. However, WinStar's support is conditioned on the FCC's adoption of its tentative conclusion to require non-U.S. satellite systems to meet all

<sup>1</sup> Further Notice of Proposed Rule Making, IB Docket No. 96-111, 62 Fed. Reg. 40494 (July 29, 1997).

technical and service requirements contained in the FCC's rules -- particularly those relating to interference to terrestrial operations -- if these non-U.S. systems are to be permitted to serve the United States.<sup>2</sup>

### Statement of Interest

WinStar is a publicly traded company whose stock is traded over the NASDAQ market system (symbol WCII). WinStar is the largest holder of spectrum in the 38.6-40.0 GHz band in the country, with licenses in forty-eight of the top fifty most populated metropolitan statistical areas in the United States.<sup>3</sup> The company's licenses cover more than 160 major market areas in total, encompassing approximately 180 million people and more than 675 million channel pops (population coverage multiplied by the number of channels). WinStar is utilizing this spectrum asset to build wireless local telephone networks for the transmission of voice, data and video traffic throughout the United States.

WinStar affiliates are authorized to provide competitive local exchange carrier ("CLEC") service, on both a facilities and resale basis, in twenty-four jurisdictions. In this regard, WinStar already has initiated commercial switched service as a wireless CLEC in New York, Chicago, Boston, Los

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<sup>2</sup> FNPRM at ¶ 44.

<sup>3</sup> Subject to FCC approval, WinStar will have licenses in all of the top fifty markets upon completion of pending acquisitions.

Angeles and San Diego. It expects to be operating switched CLEC services in at least seven other major markets by the end of 1997.

WinStar also has received authority to operate as a competitive access provider in thirty-five jurisdictions. WinStar is providing its Wireless Fiber<sup>SM</sup> services to over forty carrier customers including MCI Communications, Pacific Bell, Teleport Communications and Ameritech Cellular Services. WinStar's Wireless Fiber<sup>SM</sup> networks are so-named because of their ability to duplicate the technical characteristics of fiber optic cable with wireless 38 GHz microwave transmissions. These high-speed communications links have broadband characteristics, allowing for digital voice, data and video transmissions, and are engineered to have a reliability of 99.999 percent.

As detailed above, WinStar is a major licensee of spectrum. Consequently, it has a significant interest in the rules and policies imposed on both U.S. and non-U.S. satellite systems. WinStar respectfully offers the following Comments on the FCC's consideration of its policies regarding the appropriateness of allowing non-U.S. satellite systems to operate in the United States.

**Non-U.S. Satellite Systems Authorized To Provide  
Service in the United States Must Fully Comply  
with the FCC's Rules and Policies Especially  
with Regard to Interference to Terrestrial Stations.**

In the FNPRM, the Commission proposes to grant -- on a streamlined basis -- applications to serve the United States that are filed by satellite systems licensed in WTO member countries.<sup>4</sup> Such a position is consistent with the recently completed WTO Basic Telecom Agreement. The WTO agreement essentially calls for the opening of 95 percent of the global telecommunications market to U.S. companies. In conjunction with this opportunity, the United States has agreed to allow foreign entities to provide a broad range of telecommunications services in the United States. WinStar generally supports the FCC's efforts to liberalize its policies regarding the provision of satellite services in the United States by satellite systems licensed in WTO member countries. As a wireless competitive local exchange carrier, WinStar welcomes the FCC's efforts to encourage competition in the telecommunications industry.

While WinStar supports the FCC's efforts to open the satellite market, such support is conditioned on the Commission following through on its already-stated position

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<sup>4</sup> With respect to applications filed by satellite systems licensed in non-WTO countries, the Commission proposes to conduct the more rigorous effective competitive opportunities

regarding the compliance with Commission rules and policies by non-U.S. satellite systems:

To ensure that operations with non-U.S. satellites do not interfere with licensed operations in the United States and are otherwise consistent with Commission policy, we proposed in the Disco II Notice to require non-U.S. systems to meet all technical and service rules contained in Part 25 and Part 100 of the Commission's rules. The WTO Basic Telecom Agreement does not affect this proposal, which is consistent with U.S. commitments to national treatment and most-favored-nation obligations.<sup>5</sup>

WinStar wholeheartedly supports this tentative conclusion and urges the Commission to clarify that it fully intends to ensure that non-U.S. satellites also do not interfere with licensed terrestrial operations. Non-U.S. satellite systems must be subject to the same operational and technical restrictions as U.S. satellite systems if they intend to serve the United States. In this regard, the Commission has properly noted that the failure to comply with its rules and regulations could result in "revocation of the earth station license or reassignment of previously reserved or designated spectrum or orbit locations."<sup>6</sup> Non-U.S. satellite operators must be made fully aware now of their interference responsibilities to licensed systems.

Relatedly, WinStar supports the FCC's tentative conclusion to not authorize a non-U.S. licensed satellite to serve the United States if such a grant would "create

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test (the "ECO-Sat test") before permitting such systems to serve the United States.

<sup>5</sup> FNRPM at ¶ 39.

<sup>6</sup> *Id.* at ¶ 53.

debilitating interference problems or where the only technical solution would require the licensed systems to significantly alter their operations."<sup>7</sup> WinStar agrees with the Commission that such spectrum management policies are consistent with the WTO Basic Telecom Agreement. Moreover, WinStar encourages the Commission to extend such policies so that they are applied to all licensed systems (including terrestrial-based facilities). In other words, non-U.S. satellite systems should not be authorized if they would interfere with or cause operational problems to either licensed satellite or terrestrial systems.

**WHEREFORE, THE PREMISES CONSIDERED,** WinStar Communications, Inc. requests that the Commission adopt its proposals regarding the provision of service in the United States by satellite systems licensed by other countries in a manner consistent with the arguments set forth above.

Respectfully submitted,

**WINSTAR COMMUNICATIONS, INC.**



Timothy R. Graham  
Joseph M. Sandri, Jr.  
Barry J. Ohlson

1146 19<sup>th</sup> Street, N.W.  
Suite 200  
Washington, D.C. 20036  
202-833-5678

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<sup>7</sup> Id. at ¶ 38.